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OFFICE OF PETITIONS

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1614  
Confirmation No.: 8145  
Application No.: 09/836,567  
Invention: METHODS FOR IDENTIFYING  
AND TREATING RESISTANT  
TUMORS  
Applicant: Sawyer et al.  
Filed: April 17, 2001  
Attorney  
Docket: 3051-67789  
Examiner: Goldberg, Jerome D.

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on April 26, 2004

Rebecca Ball  
(Signature)

Rebecca L. Ball

(Printed Name)

**RESPONSE TO NOTICE TO FILE MISSING PARTS AND PETITION**  
**UNDER 37 C.F.R. § 1.147**

Mail Stop Petition  
Commissioner for Patent  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

On February 24, 2004, a Petition Decision was mailed in response to a Petition Under 37 C.F.R. § 1.181, filed by Applicants on July 11, 2003, to clarify the record in the above-captioned application. Copies of the Petition Decision (Exhibit A) and the Petition Under 37 C.F.R. § 1.181 (Exhibit B) are transmitted herewith.

Applicants hereby submit a newly prepared Declaration listing the three proper inventors, Jason Scott Sawyer, James Jacob Starling, and Stephen M. Spaethe. The Declaration has been signed by Jason Scott Sawyer and James Jacob Starling. Stephen M.

Spaethe is deceased and his legal representative, Lisa Spaethe, refuses to sign the Declaration.

On March 8, 2004, Applicants' in-house attorney, Michael Sayles, mailed a letter (Exhibit C) transmitting a copy of the newly prepared Declaration to Lisa Spaethe (Exhibit D), the legal representative for Stephen M. Spaethe, for her signature and return. A copy of the letter transmitting the Declaration and a copy of the Declaration are transmitted herewith. Also transmitted herewith are copies of the UPS Outbound Shipping form (tracking number 8R135V; see sticker; Exhibit E) used to send the letter and Declaration to Lisa Spaethe and a page from the UPS website (Exhibit F) showing tracking details which evidence delivery of the package with tracking number 8R135V to Lisa Spaethe.

To date, the signed Declaration from Lisa Spaethe has not been received. Neither Applicants' in-house attorney nor Applicants' undersigned attorney expect to receive the signed Declaration from Lisa Spaethe because Applicants' undersigned attorney and, Michael Sayles, Applicants' in-house attorney left several phone messages for Lisa Spaethe and she did not return those calls. Also, Applicants' undersigned attorney had a phone conversation with Lisa Spaethe's mother and her mother indicated that Lisa Spaethe is unwilling to cooperate in the prosecution of the above-captioned application.

Thus, a bona fide attempt has been made to obtain the participation of Lisa Spaethe, the legal representative of deceased inventor Stephen Spaethe, in the prosecution of the captioned application, but that attempt was unsuccessful. Accordingly, co-inventors Jason Scott Sawyer and James Jacob Starling hereby petition the Commissioner under 37 C.F.R. §1.47(a) to proceed with the prosecution of the captioned application on their behalf. The last known address of Lisa Spaethe is as follows:

Lisa Spaethe  
1404 Spruce Drive  
Carmel, Indiana 46033

The above-captioned application was filed with a Declaration that listed the three proper inventors, Jason Scott Sawyer, James Jacob Starling, and Stephen M. Spaethe. Accordingly, it is not believed that a Petition Under 37 C.F.R. § 1.48 is required. However, if a Petition Under 37 C.F.R. § 1.48 is required, please contact Applicants' undersigned attorney and a petition will be filed.

A check in the amount of \$130 in payment of the petition fee under 37 C.F.R. §1.17(h) is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to our Deposit Account No. 10-0435, with reference to our matter 3051-67889. A duplicate copy of this paper is enclosed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rebecca Ball".

Rebecca L. Ball  
Registration No. 46,535  
Attorney for Applicants

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317-231-7511